

REMARKS

Applicant respectfully requests reconsideration of this application as amended.

As a preliminary matter, in the Office Action mailed May 6, 2005, the Examiner did not attach an initialed copy of the PTO-1449 form references that were mailed to the PTO on January 14, 2005. The Examiner also did not indicate the references on said PTO-1449 form were not in conformance with MPEP 609. As such, applicant respectfully requests that the Examiner indicate that these references have been considered and made of record.

Office Action Rejections Summary

Claims 1-15 and 17-20 have been rejected under 35 U.S.C. §112, first paragraph.

Claims 1-15 and 17-20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,665,273 of Goguen ("Goguen") in view of U.S. Patent No. 6,618,383 of Tomlins ("Tomlins").

Claims 1-3, 6-8, 11-13, 16-18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Goguen in view of Awduche. It is respectfully submitted that claim 16 has been previously canceled and, therefore, the rejection with respect to claim 16 is moot.

Status of the Application

Claims 1-15 and 17-20 are pending in the application. No claims have been amended. No claims have been added. No new matter has been added. No claims have been canceled.

The specification has been amended to correct for typographical errors. It is submitted that no new matter has been added. Support for the specification amendments may be found, for example, in Figure 1.

Claim Rejections

Claims 1-15 and 17-20 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Each of independent claims includes the limitation of overflowing a call onto a non-multiplexed connection when a multiplexing connection's bandwidth is insufficient to carry the call.

In response to Applicant's arguments, the Office Action states:

In response the USC 112 rejection the applicant argued a non-multiplexed connection is one that carries the cells of only a single data transmission at a time.

In response to applicant's arguments, the examiner maintains that a non multiplexed link would imply a direct connection as in a piece of fiber/copper run between the source and destination. (see e.g., Tomlins/US 6,618,383: col. 5, lines 28-41). In other words the so called non-multiplexed connections (applicant's 150, Fig. 1; 450, Fig. 4; 155; section 15-16) are in fact multiplexed and the applicant has still not explained how a non-multiplexed connection is set up when the applicant is using ATM, and AAL2. The examiner has submitted proof (US 6,618,383) that ATM connections are in fact multiplexed, and the applicant has not offered any proof that the claimed non-multiplexed connection is not multiplexed over or into e.g., a SDH/155 Mbps transmission line.

(Office Action, 5/6/05, p. 3).

It is respectfully submitted that the Office Action's analysis and conclusion is inapposite. The measure of compliance with U.S.C. §112, first paragraph is not what would be implied based on the teachings of another patent (whose patentee may be its own lexicographer) but, rather, what is described in the specification of the present application. Moreover, it is submitted that an applicant is allowed to be his or her own lexicographer. See MPEP 2111.01. The Examiner is respectfully reminded that there is a strong presumption that an adequate written description of a claim invention is present in the specification as filed. See MPEP 2163; Wertheim, 541 F.2d at 262. Consequently,

rejection of an original claim (as in the present application) for lack of written description should be rare and is not appropriate in the present application.

In regards to the Office Action's assertions, what the Office Action is referring to is the multiplexing of ATM AAL2 connections on an ATM physical link. It is submitted that protocol stacks are recursive in nature and, thus, there can be more than one multiplexing relationship in the hierarchy of a protocol stack. What is described in the present application as a multiplexed connection is a connection in which cells of different data transmissions or flows are transmitted over a common connection. What is described as a non-multiplexed connection in the present application is one that carries the cells of only a single data transmission at a time. Such multiplexed and non-multiplexed connections are sufficiently described in the specification, for example, **in paragraphs 0015-0019 and Figure 1** in such a way as to enable one skilled in the art to which it pertains to make and use what is recited in the claims. In particular, Figure 1 shows multiplexed connections 150 and 145 having multiple cells 160 being CID=w, CID=y, CID=z CID=a and CID=vv, CID=xx, CID=yy, CID=zz, respectively. Furthermore, as can be seen from Figure 1, non-multiplexed connections 140 and 155 each have only a single cell 160 being CID=x.

It is submitted that the Examiner must look to the specification of the application, rather than prior art references, to determine compliance with the written description requirement. As such, the Examiner's alleged submission of proof using other patent references has no bearing on the determination of the present application's compliance with U.S.C. §112, first paragraph, in particular, because the Applicant has shown where in the specification of the present application compliance with U.S.C. §112, first paragraph may be found.

Moreover, the context for the present application's use of the term "multiplexed connection" and, thereby, "non-multiplexed connection" is supported by the ITU-T

Recommendation I.366.2 specification (a copy is being submitted with an Information Disclosure Statement being filed herewith) that states "[T]he SSCS anticipates that multiplexing in the Common Part Sublayer will be used to carry multiple narrow-band channels over individual ATM connections." (ITU-T Recommendation I.366.2, page 3).

As such, it is submitted that one of ordinary skill in the art would understand that the meaning of the terms "multiplexed connection" and "non-multiplexed connection" as used in the claims of the present application from a reading of the specification (which includes the figures) of the present application. Therefore, it is submitted that subject matter of claims 1-15 and 17-20 are described in the specification to enable one skilled in the art to which it pertains to make and use the same.

Statement Concerning Common Ownership/Obligation of Assignment

Claims 1-15 and 17-20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,665,273 of Goguen ("Goguen") in view of U.S. Patent No. 6,618,383 of Tomlins ("Tomlins"). Claims 1-3, 6-8, 11-13, 16-18 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Goguen in view of Awduche.

Applicants submit that the present application and Goguen were, at the time of the invention of the present application, owned by or subject to an obligation of assignment to Cisco Technology, Inc. As such, Goguen may not be used in rejecting claims of the present application under 35 U.S.C. § 103(c). Therefore, applicants request that the rejections with respect to claims 1-20 in view of Goguen be withdrawn.

In conclusion, applicants respectfully submit that in view of the arguments set forth herein, the applicable rejections have been overcome.

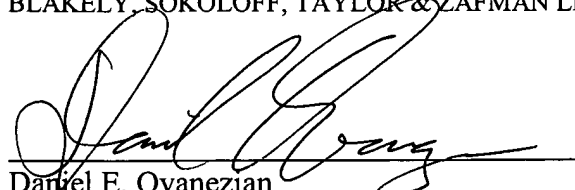
If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Daniel Ovanezian at (408) 720-8300.

If there are any additional charges, please charge our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 11/7, 2005



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